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PTO/SB/21 (04-07)

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**TRANSMITTAL
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Total Number of Pages in This Submission

63

Application Number

10/776,848

Filing Date

February 11, 2004

First Named Inventor

MURPHY JR., H. Stetser

Art Unit

3765

Examiner Name

HURLEY, Shaun R.

Attorney Docket Number

22270-RA2

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Myers & Kaplan Intellectual Property Law, LLC		
Signature			
Printed name	Sandra M. Drummond, Esq.		
Date	June 13, 2007	Reg. No.	45,781

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Typed or printed name	Teri-Lynn Bonica	Date	June 13, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (02-07)

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FEE TRANSMITTAL

For FY 2007

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

Complete if Known

Application Number	10/776,848
Filing Date	February 11, 2004
First Named Inventor	MURPHY JR., H. Stetser
Examiner Name	HURLEY, Shaun R.
Art Unit	3765
Attorney Docket No.	22270-RA2

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

_____ - 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

_____ - 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**

_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)Other (e.g., late filing surcharge): Appeal Brief Filing Fee

250.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 45,781	Telephone (770) 541-7444
Name (Print/Type)	Sandra M. Drummond, Esq.		Date June 13, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
10/776,848

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Murphy, Jr., H. Stetser)	Atty Docket: 22270-RA2
Serial No.: 10/776,848)	Examiner: Hurley, Shaun R.
Filed: February 11, 2004)	Group Art: 3765
For: CLOTHING HANGER)	
SECURING DEVICE)	

June 13, 2007

APPLICANT'S APPEAL BRIEF

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the Notice of Appeal filed April 13, 2007, Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner, made final, having a mailing date of October 26, 2006 rejecting claims 1-21 in the above-referenced application.

Please find enclosed the requisite fees, taking into account Applicant's claim of "small entity" status.

Certificate of Express Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail Label No. **EM 0027326184US** with adequate postage in an envelope addressed to: Commissioner for Patents, Mail Stop Appeal Brief-Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the following date:

June 13, 2007

Teri L. Bonica

Name of Person Mailing

Teri L. Bonica

Signature

June 13, 2007

Date

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I. REAL PARTY IN INTEREST

The real party in interest is H. Stetser Murphy, Jr., an individual residing at 1525 G Terrell Mill Place, Marietta, GA 30067, sole inventor and undivided owner of the above-referenced application, and of the invention disclosed therein.

II. RELATED APPEALS AND INTERFERENCES

Applicant is not aware of any related appeals or interferences which may have a bearing on a decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 1-21 are pending in the application. Each of claims 1-21 stands rejected as detailed in the final Office Action, mailed October 26, 2006. Applicant hereby appeals the final rejection of each of claims 1-21.

IV. STATUS OF AMENDMENTS

A Response to Final Office Action was filed on March 12, 2007, wherein amendments to the claims were presented; however, pursuant to Examiner's Advisory Action Before the Filing of an Appeal Brief mailed April 6, 2007, the proposed amendment was NOT entered because Examiner did "not deem the amendments to place the application in better form for appeal by materially reducing or simplifying the issues for appeal." Therefore, no amendments have been entered subsequent to the final rejection of claims 1-21 in the final Office Action mailed October 26, 2006. A listing of the currently pending claims is provided hereunder, entitled "VIII. Claims Appendix."

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention, as recited in independent claims 1, 13, 16, and 18, is a garment hanger device and a method of use thereof. More specifically, and with reference to Figures 1A and 1B of the application, and to pages 8-10 of the written description, the garment hanger apparatus 10 includes an arcuate, preferably "S"-shaped, hook defined by body portion 20, with hook portion 40 formed thereby at first end 30 thereof, and with ball 60 located at second end 50 thereof. Hook portion 40 is shaped to hang over a rod in a forward facing position (extending outwardly, essentially perpendicularly from the rod), wherein hook portion 40 further includes shaped portion 80 for adaptation to wire closet shelving. Ball 60 is preferably at least approximately two inches in diameter, and carries a non-slip surface on exterior 70. Ball 60 is joined such that an angle of approximately 45° from vertical is defined when garment hanger apparatus 10 is hanging.

With reference to Figure 2 and page 10 of the written description, multiple units of basic apparatus 10 are linked together via connecting rod 250. While apparatus 200 may be constructed with any number of units suitable for the hanging space available, multiple component sections, such as 220b/210b and 220c/210c may be snapped together to allow the user to construct an apparatus 200 of desired length, and/or to provide a desired number of hanging surfaces.

With reference to Figures 3A and 3C, and pages 11-12 of the written description, apparatus 300 is a multiple unit garment hanger with a base frame 310 that is hung on an upright surface via insertion of fasteners through first hole 320 and second hole 330. In the hanging position, two rows of pegs extend outwardly from base frame 310, upper pegs 360a-e and lower pegs 370a-e, with two rows of balls supported thereon. Thus, upper hanger balls 340a-e and lower hanger balls 350a-e extend outwardly from base frame 310, via peg support, wherein upper hanger balls 340a-e extend outwardly from frame 310 a greater distance than do lower hanger balls 350a-e, with the preferred

extra extension distance approximately equal to ball diameter for best performance, wherein two articles may be hung, each independently upon an individual upper or lower hanger ball, without significant deformation to either article.

With reference to Figures 3B and 3C, and page 12 of the written description, a single lower ball/upper ball unit 400 has a base frame 410 with fastening holes 420 and 430 therethrough for hanging. Extension pegs 460 and 470 have upper ball 440 and lower ball 450 attached, respectively, thereto, wherein upper ball 440 extends outwardly, a distance approximately equal to its diameter, beyond lower ball 450. Again, this configuration facilitates the hanging of two garments, individually, on one hanging device, wherein essentially unencumbered draping of each garment is achieved relative to a single upper or lower ball.

With respect to Figures 4A and 4B, and pages 12-14 of the written description, an alternate embodiment 600, comprising hanger frame 610, hanger loop support 620, neck 630, fillets 640 and balls 690, is attachable to a horizontal pole or rod or wire closet shelf. Fillets 640 serve to strengthen and align apparatus 600. Each of the two opposing hanger extensions 720a and 720b is defined by an upper rod, 650 and 660, respectively, and a rod, 670 and 680. Balls 690 are glued or otherwise attached in pairs opposingly positioned on both sides of hanger frame 610, wherein a first pair or set of balls 892 is attached at base 700 of neck 630, proximate first ends 710a and 710b of hanger extensions 720a and 720b. Second sets of balls 894a and 894b are centrally positioned at leg centers 750a and 750b along respective hanger extensions 720a and 720b of hanger frame 610, and third sets of balls 896a and 896b are positioned at respective second ends 730a and 730b of hanger extensions 720a and 720b. Lower rods 670 and 680 have an arcuate bend that facilitates placement of first set of balls 892 below base 700 of neck 630, and further provides locations for securing second sets of balls 894a and 894b, and third sets of balls 896a and 896b.

The apparatus 600 is secured to a horizontal pole or rod by extending loop support 620 over and around the horizontal pole or rod and fastening via screw 740 and nut 760 through holes in neck 630. The loop support 620 for use with a horizontal pole or rod has a generally circular loop. The apparatus 600 is secured to a wire closet shelf by extending loop support 620 over and around the closet shelf frame and fastening via screw 740 and nut 760 through holes in neck 630. The loop support 620 for use with a wire closet shelf has a generally oblong or elliptical loop. After apparatus 600 is secured, clothing is placed over individual balls 690 of hanger frame 610 for support with minimal deformation, and without slipping off.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

1. Claims 1-4, 6, 9, 10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (US 5,577,644);
2. Claims 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bury et al (US 2,946,493);
3. Claims 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('644);
4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('644) in view of Chen (US 6,170,721);
5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('644) in view of Bury ('493); and
6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('644) in view of Lehmann (US 4,872,568).

The Chen ('644), Bury ('493), Chen ('721), and Lehmann ('568) patents are attached hereto for reference as Exhibits A-D in the Evidence Appendix.

VII. ARGUMENT

Ground 1, rejection of claims 1-4, 6, 9, 10, and 13-15

Claim 1

To support a rejection under 35 U.S.C. §102(b), "The identical invention must be shown in as complete detail as is contained in the...claim," *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989), MPEP 2131.02. However, *Chen* ('644) does NOT show a generally spherical-shaped garment hanger, but describes that "hanger means can be a hanger ring, a swivel hook, a suit hanger, a frame shaped like a plum blossom and having a plurality of clothes clips, a skirt hanger, a straight rod having a plurality of radial branches for hanging things, a curved hanger rod having a bottom end terminating in a transverse hanger rod for hanging things, or a double-hook hanger for hanging shoes," (Col. 1, lines 61-67), exhaustively listing numerous hangers forms (none of which is spherical), wherein each hanger is decoratively joined to a self-described "toy doll." The Examiner, in page 2 of the Final Office Action, referred to the toy doll (20) as a spherical-shaped garment hanger, however, there can be no doubt from the description and figures of *Chen* ('644) that no such hanger shape is considered. A sphere is generally defined and well-accepted to be a round body whose surface is "at all points equidistant from the center." Such is not the case with any of the hangers of *Chen* ('644), which are circular (Figs. 1, 3), hook-shaped (Figs. 4, 10), clip-hanger shaped (Figs. 5, 7, 8), and multi-clip (Fig. 6). The toy doll of *Chen* ('644), referenced by Examiner, is self-described as a component feature that is separate, and separable, from the hanger feature, and is neither a garment hanger nor spherical-shaped, but is simply a central rod surrounded with a "skin" to define a decorative doll shape. *Chen* ('644) does not show Applicant's identical invention in as complete detail as is contained in the claim, that is, a spherical-shaped garment hanger, but simply shows a garment hanger that bears a decorative, non-uniformly shaped covering about a region that supports the hanger.

Applicant's device is a spherical-shaped garment hanger, as described in the specification, depicted in the figures, and as claimed. Applicant's ball, per the Abstract, and throughout the

disclosure, is “sufficient in diameter and texture such that clothing draped upon it will remain in place and will not be deformed in shape.” Applicant’s device does not utilize a ring, hook, or clip to retain an article of clothing, but specifically avoids the deformation introduced to an article of clothing by interaction with such a hanger by replacing same with a spherical hanger. In page 5 of the Final Office Action, Examiner states that “as long as the structure of the prior art is capable of performing the intended use, the claims are anticipated.” *Chen* (‘644), however, does NOT describe a spherical-shaped garment hanger capable of receiving and supporting a garment.

On page 5 of the Final Office Action, the Examiner erroneously argues that even though *Chen* (‘644) only describes hook, clip and ring hangers, that one should somehow redefine the invention and drape an article of clothing over the hollow, decorative toy component instead of on the hanger component. The Examiner’s position is set forth somehow irrespective of the fact that a support hook extends directly from the region where the article of clothing would need to drape, by definition, and somehow without regard that the “duration of exposure between the garment” and the toy would necessarily be forcibly limited to the brief period that could possibly exist before the hollow skin toy would deform. Clearly, this is NOT the performance of the intended use of Applicant’s device, as claimed.

Thus, for the reasons stated above, claim 1 is patentable over *Chen* (‘644). Claims 2-4, 6, 9 and 10, depending from claim 1, are allowable as well, at least for the reasons stated with respect to claim 1, and further as discussed hereinbelow.

Claim 4

As to Claim 4, the Examiner, on page 2 of the Final Office Action, states that *Chen* (‘644) teaches a hanger “made of a moldable material” because “all materials including plastics, metals, etc are moldable.” One skilled in the art would certainly not consider “all materials” to be moldable. On the contrary, one would consider a moldable material hanger to have been made in a mold, such as is described by Applicant on page 9, lines 18-22, “Apparatus 10 is preferably manufactured and/or integrally formed as a single unit...preferably prefabricated by injection molding...” Construction via such moldable material is NOT taught by *Chen* (‘644), nor would it be possible to form the *Chen* (‘644) device by such a manner. *Chen* (‘644) is formed from a plurality of members, including “a rod member 10, a toy doll 20, a first cap 30, a second cap 40, a hangar 50, and a swivel hook 60,” (Col. 2, lines 35-37), wherein the toy doll 20 is further formed by a skin 21 covering rod 10 and

coupled with caps 30 and 40. (Col. 2, lines 40-44). Thus, neither the overall structure of the *Chen* ('644) device nor the toy doll subcomponent are suitable for moldable manufacture, or described as so manufactured.

Therefore, for the reasons stated above, and for the preceding reasons stated with respect to claim 1, claim 4 is patentable over *Chen* ('644).

Claim 13

As to Claim 13, the Examiner, on page 2 of the Final Office Action, states that *Chen* ('644) "inherently teaches the method of using such a hanger." On the contrary, as noted above, *Chen* ('644) describes hanging only relative to "a hanger ring, a swivel hook, a suit hanger, a frame shaped like a plum blossom and having a plurality of clothes clips, a skirt hanger, a straight rod having a plurality of radial branches for hanging things, a curved hanger rod having a bottom end terminating in a transverse hanger rod for hanging things, or a double-hook hanger for hanging shoes." (Col. 1, lines 61-67) The inherent methods involved in using each of the foregoing hangers, as described by *Chen* ('644), do NOT involve obtaining a hanger with a ball-shaped support and do NOT involve hanging an object on said ball-shaped support.

Applicant's method, unlike that of *Chen* ('644), enables clothing to "experience minimal structural deformation," (p. 2, line 9), is suitable "for hanging draping material," (p. 5, line 17), "minimizes distortion of materials placed over ball 60, in particular, knit clothing," (p. 9, lines 1-3), and "clothing may be placed over individual balls 690, wherein apparatus 600 supports the clothing with minimal deformation." (p. 14, lines 14-16). Not only does *Chen* ('644) fail to describe a ball over which materials could be draped, but the hanging methods inherent in the hangers of *Chen* ('644), that is, extending through a ring, hanging on a hook, and clipping, are precisely the type of knit-deforming methods that Applicant's device serves to avoid.

Because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. V. Union Oil co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), MPEP 2131, because "The elements must be arranged as required by the claim..." *In re Bond*, 910 F.2d 831, (Fed. Cir. 1990), MPEP 2131.02, and because Applicant's method, as claimed, is NOT described by *Chen* ('644), nor possible with the *Chen* ('644) hangers, Applicant's method is not anticipated by *Chen* ('644).

Thus, for the reasons stated above, claim 13 is patentable over *Chen* ('644). Claims 14 and 15, depending from claim 13, are allowable as well, at least for the reasons stated with respect to claim 13, and further as discussed hereinbelow.

Claim 15

As to Claim 15, the Examiner fails to specifically refer to the limitations of the claimed method, but, on page 2 of the Final Office Action, only generally states that *Chen* ('644) "inherently teaches the method of using such a hanger." As noted hereinabove with respect to Claim 13, *Chen* ('644) describes hanging only relative to "a hanger ring, a swivel hook, a suit hanger, a frame shaped like a plum blossom and having a plurality of clothes clips, a skirt hanger, a straight rod having a plurality of radial branches for hanging things, a curved hanger rod having a bottom end terminating in a transverse hanger rod for hanging things, or a double-hook hanger for hanging shoes," (Col. 1, lines 61-67), wherein none of the hangers as described by *Chen* ('644) are utilized or capable of a method involving "positioning a garment over and substantially covering the surface of said ball-shaped support for retention thereby."

Again, not only does *Chen* ('644) fail to describe a ball over which materials could be draped, but the central positioning of the support extension of the *Chen* ('644) device would prevent a garment from being "hung over and substantially covering the surface" thereof.

Therefore, for the reasons stated above, and for the preceding reasons stated with respect to claim 13, claim 15 is patentable over *Chen* ('644).

Ground 2, rejection of claims 18-21

Claim 18

As to Claim 18, on page 6 of the Final Office Action, Examiner states that "Applicant's arguments that the extension arm is not secured to the support frame...are erroneous. If they were not secured, then they would simply fall off." Examiner misquotes and wrongly dismisses Applicant's argument. In page 9 of Applicant's September 13, 2006 Response, Applicant clearly stated, and maintains, that the *Bury* ('493) device has "no referenced support frame, and, even if one considers

the hanging hook to be a support frame, the "extension arm 14" recited by Examiner as having first and second ends **is not secured to a support frame at a first end, as claimed by Applicant, but is centrally secured to a hook with both ends hanging free and completely unsecured.**" It is not, therefore, that the extension arm of *Bury* ('493) is not attached, but that it is not attached AT ONE END, as is required by Claim 18. "The elements must be arranged as required by the claim," *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), in order for anticipation to be found. The hanger of *Bury* ('493) does NOT have at least one two-ended extension arm wherein one end is secured to a support frame and the other end carries a ball, as is required by Claim 18. The hanger of *Bury* ('493) has a two-ended extension arm, CENTRALLY secured to a support hanger, with each of the two extended ends carrying a ball.

Applicant's device, according to this claimed embodiment of Applicant's device, referring to FIGS 3A-3C of the specification as filed, does include a support frame, does include at least one extension arm having one end secured to the support frame and a second end bearing a ball. As described on pages 11-12, Applicant's extension arms are support pegs 360a-360e and 370a-370e, wherein one end of each extension arm is secured to the base (support) frame 310, and the other end of each extension arm carries a ball 340a-340e and 350a-350e, respectively.

Thus, for the reasons stated above, claim 18 is patentable over *Bury* ('493). Claims 19-21, depending from claim 13, are allowable as well, at least for the reasons stated with respect to claim 18, and further as discussed hereinbelow.

Claim 19

As to Claim 19, on page 3 of the Final Office Action, Examiner states regarding *Bury* ('493) that "the extension arm had upper and lower extension with a ball (22, 24) attached on each..." Claim 19, however, recites that "said at least one extension arm comprises **at least one upper extension arm and at least one lower extension arm,**" with an upper ball on the upper extension arm and a lower ball on the lower extension arm. Examiner erroneously asserts that two extension arms, each bearing a ball, are anticipated by a single extension arm with two balls extending therefrom. Clearly, because "the elements must be arranged as required by the claim," *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. V. Union Oil co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), and because *Bury*

(‘493) does NOT describe or arrange two extension arms, one upper and one lower relative to one another, and each bearing a ball, Applicant’s device is not anticipated.

Again, Applicant’s device, according to this claimed embodiment of Applicant’s device, referring to FIGS 3A-3C and pages 11-12 of the specification as filed, describes upper extension arms (support pegs 360a-360e) and lower extension arms (support pegs 370a-370e), wherein one end of each extension arm is secured to the base (support) frame 310, and the other end of each extension arm carries an upper ball 340a-340e and a lower ball 350a-350e, respectively.

Therefore, for the reasons stated above, and for the preceding reasons stated with respect to claim 18, claim 19 is patentable over *Bury* (‘493).

Claim 20

As to Claim 20, the Examiner fails to specifically refer to the limitations of the claimed device, wherein “said support frame is secured to a surface and said at least one upper ball extends approximately a diameter beyond said at least one lower ball in a direction away from the surface.” With reference to Applicant’s FIG. 3C, and page 11, lines 15-19, Applicant discloses the claimed configuration, wherein performance is maximized “when they (upper hanger balls) extend outward a distance approximately equal to their diameter beyond lower hanger balls.” No such configuration is depicted or described by *Bury* (‘493), and no reference to any interpretation of any such feature is provided by the Examiner.

“The identical invention must be shown in as complete detail as is contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989), MPEP 2131.02. Applicant’s identical invention, wherein the upper ball extends approximately a diameter beyond the lower ball in a direction away from the surface, is clearly not shown by *Bury* (‘493).

Therefore, for the reasons stated above, and for the preceding reasons stated with respect to claims 18 and 19, claim 20 is patentable over *Bury* (‘493).

Ground 3, rejection of claims 5, 7 and 8

Claim 5

When making a rejection under 35 U.S.C. 103(a), “the examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” MPEP 2142. As to claim 5, the Examiner stated, at page 3 of the final Office Action, that “*Chen* essentially teaches the invention,” but concedes that *Chen* (‘644) fails to disclose “being integrally molded.” The Examiner then stated, also at page 3 of the final Office Action, that “it would have been obvious to one of ordinary skill in the art...to mold the hanger in one piece...so as to cheaply produce a safe hanger,” further stating that “Molding as one piece removes expensive assembly...” However, as noted hereinabove, integral molding is not only NOT taught by *Chen* (‘644), it would NOT BE POSSIBLE to form the *Chen* (‘644) device by such a manner. *Chen* (‘644) is formed from a plurality of members, including “a rod member 10, a toy doll 20, a first cap 30, a second cap 40, a hangar 50, and a swivel hook 60,” (Col. 2, lines 35-37), wherein the toy doll 20 is further formed by a skin 21 covering rod 10 and coupled with caps 30 and 40. (Col. 2, lines 40-44). Thus, the structure of the *Chen* (‘644) device is NOT suitable for integrally molded manufacture.

Such integral molding is preferred for Applicant’s device, as is described by Applicant on page 9, lines 18-22, “Apparatus 10 is preferably manufactured and/or integrally formed as a single unit...preferably prefabricated by injection molding...” Again, construction via such molding is NOT possible for the *Chen* (‘644) device, as described. “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *In re Ratti*, 270 F.2d 810 (CCPA 1959). There can be no argument that to integrally mold the *Chen* (‘644) device as a single unit would transform the entire assembly. For example, the swivel action would be eliminated; the detachability of the toy doll would be prevented; and the soft, “stuffed animal” appearance of the toy doll would be completely removed.

Thus, for the reasons stated above, claim 5 is patentable over *Chen* (‘644).

Claims 7 and 8

As to claims 7 and 8, the Examiner stated, at page 3 of the final Office Action, that “*Chen* essentially teaches the invention,” but concedes that *Chen* (‘644) fails to disclose “being integrally

molded of expanded polystyrene.” The Examiner then stated, also at page 3 of the final Office Action, that “it would have been obvious to one of ordinary skill in the art...to mold the hanger...out of expanded polystyrene so as to cheaply produce a safe hanger,” further stating that “expanded polystyrene is a safer material for hanging garments on, all understood by the ordinarily skilled artisans and known in the art.” However, as noted hereinabove, not only does *Chen* (‘644) NOT disclose a spherical hanger, but even if it did, *arguendo*, and if Examiner’s toy doll 20 reference is considered a spherical hanger, same is NOT suitable for formation from a material selected from the group consisting of plastics and elastomers, or from polystyrene. *Chen* (‘644) repeatedly refers to the toy doll 20 as being formed from skin, and each figure depicts an animal skin or fur type of configuration. No other configuration, style or material is suggested. Again, such a “modification...would change the principle of operation of the prior art invention being modified,” therefore, “the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *In re Ratti*, 270 F.2d 810 (CCPA 1959).

Therefore, for the reasons stated above, and for the preceding reasons stated with respect to claim 1, claims 7 and 8 are patentable over *Chen* (‘644).

Ground 4, rejection of claim 11

Claim 11

As to Claim 11, Examiner stated in page 3 of the final Office Action that “Chen (644) essentially teaches the invention...but fails to specifically teach the hook having substantially flat surfaces,” asserting that in view of Chen (US 6,170,721), one skilled in the art would have utilized flat surfaces to stabilize the hook on a rod. However, as noted hereinabove with reference to Claim 1, wherein dependent Claim 11 depends from dependent Claim 2, which depends from Claim 1, contrary to Examiner’s assertion, Chen (‘644) does not teach Applicant’s device. Applicant’s device is a spherical-shaped garment hanger, as described in the specification, depicted in the figures, and as claimed. Applicant’s ball, per the Abstract, and throughout, is “sufficient in diameter and texture such that clothing draped upon it will remain in place and will not be deformed in shape.” In page 5 of the Final Office Action, Examiner states that “as long as the structure of the prior art is capable of performing the intended use, the claims are anticipated.” *Chen* (‘644), however, does NOT describe a spherical-shaped garment hanger capable of receiving and supporting a garment, whether the device hooks to a support via a flat or curved hook. “A different situation exists where the solution is

obvious from prior art which contains the same solution for a similar problem,” *In re Wiseman*, 596 F.2d 1019, 1022 (CCPA 1979), however, such is not the present case, wherein no directional hanging problem is noted or considered, and no solution is offered.

Thus, for the reasons stated above, in addition to the reasons stated with regard to claim 1, Claim 11 is patentable, at least for the reasons stated. Claim 12, depending from claim 11, is allowable as well, at least for the reasons stated with respect to claims 1 and 11.

Ground 5, rejection of claim 12

Claim 12

As to Claim 12, Examiner stated in page 4 of the final Office Action that “Chen (644) essentially teaches the invention...but fails to specifically teach a hemispherical indent,” erroneously asserting, “which Bury (493) teaches (Figure 6).” Again, as noted immediately hereinabove with respect to claim 11, Chen (‘644) does not “essentially teach” Applicant’s invention. *Arguendo*, even if so, Figure 6 of Bury (‘493) does NOT depict a hemispherical indent and flat surfaces for stabilizing a hanging device. Bury (‘493) describes ONLY a hook (reference numbers 32 and 52), with no further particularity or difference than that of Chen (‘644).

As described in Applicant’s specification (page 8, lines 15-21), depicted in Figures 1A and 1B, and as claimed, the hook portion 40 of Applicant’s device “is preferably flattened to hang facing forward,” wherein “shaped portion 80 preferably causes apparatus 10 to hang facing forward on the small rod that is integral with modern wire closet shelving.” Applicant’s shaped portion, or hemispherical indent as claimed, is not described, depicted, or suggested in any manner by any of the references.

Thus, for the reasons stated above, in addition to the reasons stated with regard to claims 1 and 11, Claim 12 is patentable, at least for the reasons stated.

Ground 6, rejection of claims 16 and 17

Claim 16

As to Claim 16, Examiner states on page 4 of the final Office Action that, “Chen essentially

teaches the invention,” but concedes that Chen (‘644) fails to teach “a plurality of hanging rods along a connecting rod.” The Examiner then stated Lehmann (4,872,568) “teaches that using such a spreadwidth construction is well known in the art,” referencing Figure 1. “To establish a *prima facie* case of obviousness. . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.” MPEP 2142. The subject claim limitations include a plurality of hanging arms, each comprising a ball end, an arcuate shaft and a hanging end, and means for interconnecting same. There is simply no foundational disclosure to support Examiner’s assertions. Neither Chen (‘644) nor Lehmann (‘568) even arguably disclose “plurality of hanging arms, each comprising a ball end, arcuate shaft and hanging end.” Chen (‘644) is a singular hanger with a toy attached, and is not configured in a manner that could even lend itself to a means for interconnecting. Lehmann (‘568) is nothing more than a hanging strip with apertures that are capable of receiving any type of hanging device. At most, the combination of Lehmann (‘568) and Chen (‘644) could result in a plurality of Chen (‘644) devices being hung from Lehmann (‘568), but clearly, this is not even remotely similar to Applicant’s device, as claimed, as described, and as depicted in Figure 2.

Applicant’s device comprises “multiple units of basic embodiment apparatus 10, **linked together rigidly or flexibly via connecting rod 250**,” wherein the apparatus “may be made of multiple component sections, such as 220b/210b, and 220c/210c, that may be snapped together, thus allowing the user to construct apparatus 200 of desired length.” The subject claim 16 includes a plurality of hanging arms and means for interconnecting same. These limitations are not taught or suggested in the references. Claim 16 is, therefore, patentable over Chen (‘644) in view of Lehmann (‘568), at least because the Examiner has failed to establish where the plurality of hanging arms and means for interconnecting same is taught in the prior art. Further, Claim 17, depending from claim 16, is allowable as well, at least for the reasons stated with respect to claim 16, and as further discussed hereinbelow.

Claim 17

As to Claim 17, the Examiner fails to specifically refer to the limitation of the claimed device, wherein “said means for interconnecting comprises at least one connecting rod,” for interconnecting a plurality of hanging arms. To the extent that claim 17 is an additional limitation to claim 16, the arguments made above with respect to claim 16 also apply to the rejection of claim 17, and are incorporated by reference here. That is, Claim 17 is patentable over Chen (‘644) in view of Lehmann (‘568), at least because the Examiner has failed to establish where “the means for

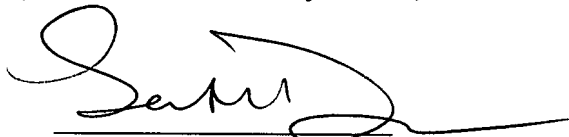
interconnecting as at least one connecting rod” is taught in the prior art.

Conclusion

Applicant respectfully submits that the rejection of claims 1-21, made final in the Office Action dated October 26, 2006, should be reversed at least for the reasons stated above. Applicant further respectfully asserts that the refusal to enter Applicant’s amendments to claims 1, 12, 14 and 16-20 (as proposed and filed on March 12, 2007), as reported in the Advisory Action dated April 6, 2007, was incorrect in stating that the proposed amendments “did not place the application in better form for appeal.” On the contrary, Applicant’s proposed, non-entered amendments further limited the structural configuration of the device, undoubtedly materially reducing the issues. Applicant has attached, as *EXHIBIT E*, the proposed, non-entered amendments, should consideration be desired.

Allowance of claims 1-21 is, therefore, respectfully requested. Or, in the alternative, amendment of claims 1, 12, 14, and 16-20, as previously proposed, with subsequent allowance of claims 1-21 is respectfully requested.

Respectfully submitted this 13th day of June, 2007.



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VIII. CLAIMS APPENDIX

The following is a listing of the claims involved in the instant appeal.

1. (Previously Presented) A garment hanger comprising:

at least one generally arcuate member having a first end and at least one second end; and

at least one generally spherical-shaped member,

wherein said at least one generally spherical-shaped member is carried proximate to said at least one second end of said at least one generally arcuate member and said at least one generally spherical-shaped member receives and supports the garment.
2. (Original) The hanger of claim 1, wherein said first end of said at least one arcuate member defines a generally hook-shape.
3. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member is a ball at least approximately two inches in diameter.
4. (Original) The hanger of claim 1, wherein said hanger is formed from a moldable material.
5. (Original) The hanger of claim 1, wherein said at least one generally arcuate member and said at least one generally spherical-shaped member are integrally molded.

6. (Original) The hanger of claim 1, further comprising at least one generally non-slip surface carried by said at least one generally spherical-shaped member.

7. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member comprises a material selected from the group consisting of plastics and elastomers.

8. (Original) The hanger of claim 7, wherein said material comprises expanded polystyrene.

9. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member carries a plurality of surface protrusions.

10. (Original) The hanger of claim 1, further comprising means for fixably attaching said at least one generally spherical-shaped member to said at least one generally arcuate member.

11. (Original) The hanger of claim 2, wherein said generally hook shape of said first end of said at least one generally arcuate member comprises a section having substantially flat surfaces defining at least a portion of said hook shape.

12. (Original) The hanger of claim 11, wherein said arcuate hook shape has at least one generally hemispherical indent therein, whereby said generally hemispherical indent serves to stabilize said hanger facing forward when positioned on an external support.

13. (Original) A method of hanging an object comprising the steps of:

- a) obtaining an arcuate hanger having a first end, a second end and a ball-shaped support carried at said first end thereof;
- b) hanging said second end of said arcuate hanger on an external support; and
- c) hanging an object on said ball-shaped support of said arcuate hanger.

14. (Original) The method of claim 13, wherein said ball-shaped support is at least approximately two inches in diameter.

15. (Original) The method of claim 13, wherein said ball-shaped support has a non-slip surface thereon, and further comprising the following step:

- d) positioning a garment over and substantially covering the surface of said ball-shaped support for retention thereby.

16. (Original) A clothes hanging apparatus comprising:

a plurality of hanging arms, each comprising a ball end, an arcuate shaft and a hanging end;
and

means for interconnecting said plurality of hanging arms.

17. (Original) The clothes hanging apparatus of claim 16, wherein said means for interconnecting comprises at least one connecting rod.

18. (Previously Presented) A garment hanging device comprising:

support frame;

at least one extension arm, having first end and second end, wherein said first end is secured to said support frame; and

at least one ball attached to said second end, wherein the garment hangs on said at least one ball.

19. (Original) The garment hanger of claim 18, wherein said at least one extension arm comprises at least one upper extension arm and at least one lower extension arm, and wherein said at least one ball comprises at least one upper ball attached to said at least one upper extension arm and at least one lower ball attached to said at least one lower extension arm.

20. (Original) The garment hanging device of claim 19, wherein said support frame is secured to a surface and said at least one upper ball extends approximately a diameter beyond said at least one lower ball in a direction away from the surface.

21. (Original) The garment hanger of claim 18, further comprising at least one ball attached proximate said first end and at least one ball attached between said first end and said second end approximately midway therebetween.

IX. EVIDENCE APPENDIX

EXHIBIT A

United States Patent Number 5,577,644 to Chen. This reference was originally entered in the record by the Examiner in a list of references cited by the Examiner (PTO-892 form) on June 13, 2006, accompanying a non-final Office Action.

EXHIBIT B

United States Patent Number 2,946,493 to Bury et al. This reference was originally entered in the record by the Examiner in a list of references cited by the Examiner (PTO-892 form) on June 13, 2006, accompanying a non-final Office Action.

EXHIBIT C

United States Patent Number 6,170,721 to Chen. This reference was originally entered in the record by the Examiner in a list of references cited by the Examiner (PTO-892 form) on June 13, 2006, accompanying a non-final Office Action.

EXHIBIT D

United States Patent Number 4,872,568 to Lehmann. This reference was originally entered in the record by the Examiner in a list of references cited by the Examiner (PTO-892 form) on June 13, 2006, accompanying a non-final Office Action.

EXHIBIT E

Applicant's non-entered amendments to claims 1, 12, 14, and 16-20, including status of all claims, as proposed and presented on March 12, 2007.

X. RELATED PROCEEDINGS APPENDIX

None.

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

AMENDMENTS TO THE CLAIMS

The following listing of claims will replace all previous versions and listings of claims.

1. (Currently Amended) A garment hanger comprising:

at least one generally arcuate member having a first end and at least one second end; and

at least one generally spherical-shaped member,

wherein said at least one generally spherical-shaped member is carried proximate to said

at least one second end of said at least one generally arcuate member and wherein said at least one generally arcuate member comprises an s-shape member with said first end being generally down-turned and at least one second end being generally up-turned.

Deleted: said at least one generally spherical-shaped member receives and supports the garment

2. (Original) The hanger of claim 1, wherein said first end of said at least one arcuate member defines a generally hook-shape.

3. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member is a ball at least approximately two inches in diameter.

4. (Original) The hanger of claim 1, wherein said hanger is formed from a moldable material.

5. (Original) The hanger of claim 1, wherein said at least one generally arcuate member and said at least one generally spherical-shaped member are integrally molded.

6. (Original) The hanger of claim 1, further comprising at least one generally non-slip surface carried by said at least one generally spherical-shaped member.

7. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member comprises a material selected from the group consisting of plastics and elastomers.

8. (Original) The hanger of claim 7, wherein said material comprises expanded polystyrene.

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9. (Original) The hanger of claim 1, wherein said at least one generally spherical-shaped member carries a plurality of surface protrusions.

10. (Original) The hanger of claim 1, further comprising means for fixably attaching said at least one generally spherical-shaped member to said at least one generally arcuate member.

11. (Original) The hanger of claim 2, wherein said generally hook shape of said first end of said at least one generally arcuate member comprises a section having substantially flat surfaces defining at least a portion of said hook shape.

12. (Currently Amended) The hanger of claim 11, wherein said arcuate hook shape has at least one generally hemispherical indent therein, said generally hemispherical indent being medially disposed along a length of said arcuate hook shape and said generally hemispherical indent having a radius of curvature less than a radius of curvature of said arcuate hook shape.

Deleted: whereby said generally hemispherical indent serves to stabilize said hanger facing forward when positioned on an external support

13. (Original) A method of hanging an object comprising the steps of:

- a) obtaining an arcuate hanger having a first end, a second end and a ball-shaped support carried at said first end thereof;
- b) hanging said second end of said arcuate hanger on an external support; and
- c) hanging an object on said ball-shaped support of said arcuate hanger.

14. (Currently Amended) The method of claim 13, wherein said second end of said arcuate hanger comprises an indent medially disposed therein, said indent having a radius of curvature smaller than a radius of curvature of said second end.

Deleted: ball-shaped support is at least approximately two inches in diameter

15. (Original) The method of claim 13, wherein said ball-shaped support has a non-slip surface thereon, and further comprising the following step:

d) positioning a garment over and substantially covering the surface of said ball-shaped support for retention thereby.

16. (Currently Amended) A clothes hanging apparatus comprising:

a plurality of hanging arms, each comprising a ball end, an arcuate shaft, and a hanging end, wherein each of said plurality of hanging arms is connected to at least one adjacent one of said plurality of hanging arms by an integrally formed connecting rod,

Deleted: ; and

Deleted: means for interconnecting said plurality of hanging arms

17. (Currently Amended) The clothes hanging apparatus of claim 16, wherein each said connecting rod is fixedly disposed generally perpendicular to a longitudinal axis of said arcuate shaft.

Deleted: means for interconnecting comprises at least one

18. (Currently Amended) A garment hanging device comprising:

a generally planar support frame;

a plurality of extension arms, each having a first end and a second end, wherein said first end is secured to said support frame; and

Deleted: at least one

at least one ball attached to said second end,

Deleted: , wherein the garment hangs on said at least one ball

19. (Currently Amended) The garment hanger of claim 18, wherein said plurality of extension arms comprises at least one upper extension arm and at least one lower extension arm, and wherein said at least one ball comprises at least one upper ball attached to said at least one upper extension arm and at least one lower ball attached to said at least one lower extension arm, wherein said at least one upper extension arm and said lower extension arm have at least one of different lengths and different angular orientation with respect to said generally planar support frame.

Deleted: at least one

20. (Currently Amended) The garment hanging device of claim 19, wherein said support frame is secured to a surface and said at least one upper ball extends a distance beyond a distal surface of said at least one lower ball in a direction away from the surface, wherein said distance is approximately equal to a diameter of said at least one upper ball.

Deleted: approximately a diameter

21. (Original) The garment hanger of claim 18, further comprising at least one ball attached proximate said first end and at least one ball attached between said first end and said second end approximately midway therebetween.